

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
Lumber Liquidators, Incorporated
Registration No. 51299**

SECTION A: Purpose

This is a Consent Order issued under the Authority of Va. Code § 10.1-1309 and 10.1-1316 between the State Air Pollution Control Board and Lumber Liquidators Incorporated, for the purpose of resolving certain alleged violations of environmental laws and regulations and to provide for the payment of civil charges.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. AVa. Code≡ means the Code of Virginia (1950), as amended.
2. ABoard≡ means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. ADepartment≡ means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. ADirector≡ means the Director of the Department of Environmental Quality.
5. AOrder≡ means this document, also known as a Consent Order.
6. ARegulations≡ mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution 9 VAC 5-10-10 *et seq.*

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7. "Lumber Liquidators" means Lumber Liquidators, Incorporated certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
8. "Facility" means the Lumber Liquidators Incorporated located at 1104 W. Roslyn Road, Colonial Heights, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Permit" means the Minor New Source Review Permit issued to Lumber Liquidators on November 10, 1999.

SECTION C: Findings of Facts and Conclusions of Law

1. Lumber Liquidators operates a wood flooring manufacturing facility located 1104 W. Roslyn Road, Colonial Heights, Virginia. This facility is the subject of the Minor New Source Review Permit issued on November 10, 1999.
2. On June 18, 2003 an air compliance inspection was performed at Lumber Liquidators. Subsequent to this inspection Lumber Liquidators was issued a Warning Letter dated July 15, 2003 for failure to maintain throughput records, excess fugitive emissions and an unpermitted generator.
3. Lumber Liquidators responded to the Warning Letter on August 28, 2003. The response included measures the facility would implement to control fugitive emissions and information on the emergency generator and throughput records for Production, Top Coat, Durethane Sealer, Abrasion Sealer, and Sawdust shipped off site.
4. Condition number 8 of the November 10, 1999 permit limits the throughput of wood flooring to 8,000,000 square feet per year, calculated monthly as the sum of each consecutive 12 month period. The reported throughput of wood flooring was 10,446,800 square feet per year, calculated monthly as the sum of each consecutive 12 month period.
5. Condition number 11 of the November 10, 1999 permit limits the throughput of High Abrasion Sealer to 5,000 gallons per year, calculated monthly as the sum of each consecutive 12 month period. The reported throughput of High Abrasion Sealer was 13,079 gallons per year, calculated monthly as the sum of each consecutive 12 month period.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1316 C, orders Lumber Liquidators, and Lumber Liquidators voluntarily agrees, to pay a civil charge of \$5,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be by check, payable to “Treasurer of Virginia”, and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Payment shall include the Federal Tax Identification Number of the facility.

2. Lumber Liquidators, Incorporated shall submit a complete Form 7 permit application within 90 days from the execution of this Order to the Department.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Lumber Liquidators, for good cause shown by Lumber Liquidators, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those alleged violations specifically identified herein including those matters addressed in the Notice of Violation issued to Lumber Liquidators on March 5, 2004. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For the purposes of this Order and subsequent actions with respect to this Order, Lumber Liquidators admits the jurisdictional allegations but does not admit factual findings and conclusions of law contained herein.
4. Lumber Liquidators consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Lumber Liquidators declares it has received fair and due process under the Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and

to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Lumber Liquidators to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Lumber Liquidators shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Lumber Liquidators must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Lumber Liquidators shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.Failure to so notify the Regional Director within 24 business hours of learning of any condition listed above, which the Parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Lumber Liquidators. Notwithstanding the foregoing, Lumber Liquidators agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Lumber Liquidators. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lumber Liquidators from its obligation

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to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement other wise applicable.

12. By its signature below, Lumber Liquidators Incorporated voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Lumber Liquidators Incorporated.

Date: _____

Thomas D. Sullivan
President

Commonwealth of Virginia

City/County of _____

The foregoing instrument was acknowledged before me this _____ day of _____

2004, by _____, _____ on behalf of Lumber Liquidators, Incorporated

My commission expires:
Date

Notary Public